

Campbell, CA

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

DURHAM SCHOOL SERVICES, LLP

Employer

and

Case 32-RC-66466

FREIGHT, CONSTRUCTION, GENERAL DRIVERS,  
WAREHOUSEMEN AND HELPERS LOCAL NO. 287,  
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

Petitioner

**DECISION, ORDER, AND DIRECTION OF SECOND ELECTION**

The National Labor Relations Board has considered objections to an election held November 18, 2011, and the Administrative Law Judge's report recommending disposition of them. The election was conducted pursuant to a Stipulated Election Agreement. The tally of ballots shows 63 ballots cast for and 49 ballots cast against the Petitioner, with 3 void ballots and 5 undetermined challenged ballots, an insufficient number to affect the results.

No exceptions have been filed to the Administrative Law Judge's report within the time provided. Accordingly, the Board adopts the Administrative Law Judge's findings and recommendations.

**IT IS ORDERED** that the election conducted on November 18, 2011, be set aside and that a rerun election be conducted.

## **DIRECTION OF SECOND ELECTION**

A second election by secret ballot shall be conducted among the employees in the unit found appropriate whenever the Regional Director deems appropriate. The Regional Director shall direct and supervise the election, subject to the Board's Rules and Regulations. Eligible to vote are those employed during the payroll period ending immediately before the date of the Notice of Second Election, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike that began less than 12 months before the date of the first election and who retained their employee status during the eligibility period and their replacements. *Jeld-Wen of Everett, Inc.*, 285 NLRB 118 (1987). Those in the military services may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the payroll period, striking employees who have been discharged for cause since the strike began and who have not be rehired or reinstated before the election date, and employees engaged in an economic strike that began more than 12 months before the date of the first election and who have been permanently replaced. Those eligible shall vote whether they desire to be represented for collective bargaining by Freight, Construction, General Drivers, Warehousemen and Helpers Local No. 287, International Brotherhood of Teamsters.

To ensure that all eligible voters have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. *Excelsior Underwear*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Co.*, 394 U.S. 759 (1969). Accordingly, it is directed that an eligibility list containing the full names and addresses of all the eligible voters must be filed by the Employer with the Regional Director within 7 days from the date of Notice of Second Election. *North Macon Health*

*Care Facility*, 315 NLRB 359 (1994). The Regional Director shall make the list available to all parties to the election. No extension of time to file the list shall be granted by the Regional Director except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election if proper objections are filed.

Dated, Washington, D.C., February 23, 2012.

By direction of the Board:

Henry S. Breiteneicher

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Associate Executive Secretary